IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.P.BALACHANDRAN

TUESDAY, THE 9TH JANUARY 2007 / 19TH PAUSHA 1928

Crl.Rev.Pet.No. 236 of 1998

CRA.5/1992 of SESSIONS COURT, KASARAGOD
CC.161/1993 of JUDL. MAGISTRATE OF FIRST CLASS, KASARAGOD

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REVN. PETITIONER/APPELLANT/2ND ACCUSED:

P.P.KRISHNAN, AGED 34 YEARS,
S/O AMMINI, CHAKLIYA COLONY,
VIDYA NAGAR, KASARAGOD.

BY ADV. SRI.KODOTH SREEDHARAN

RESPONDENT/RESPONDENT/COMPLAINANT:

STATE OF KERALA REP. BY THE PUBLIC
PROSECUTOR, HIGH COURT KERALA,
ERNAKAULAM.

BY PUBLIC PROSECUTOR SRI.PUZHAKKARA MOHAMMED

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 09/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

K.P. Balachandran, J.

Crl.R.P.No. 236 of 1998

ORDER

The second accused in C.C.No.161/93 on the file of the Judicial First Class Magistrate's Court, Kasaragod is the revision petitioner. He, along with the first accused in the said case, was convicted by the learned Magistrate for offence under Section 205 IPC read with Section 109 thereof and was sentenced thereunder to undergo simple imprisonment for six months. He filed Crl.A.No.5/97 and the first accused filed Crl.A.No.6/97 before the Sessions Court, Kasaragod. Both the appeals were dismissed by the Sessions Judge, confirming the conviction and sentence passed against the accused. The first accused challenged the concurrent conviction and sentence passed against her before this Court in Crl.R.P.No.1000/97 and that was dismissed, confirming the correctness of

the conviction and sentence passed against her. This revision is filed by the second accused against the concurrent conviction and sentence passed against her, by the courts below.

2. The allegation against the accused in the case is that the first accused falsely impersonated one Karinju and stood bail for the accused in Crime No.164/TR/93, pending before the Chief Judicial Magistrate's Court, Kasaragod and the second accused abetted commission of the said offence. It was the first accused, who impersonated and stood as surety and the second accused, who is the present petitioner, was being convicted and sentenced for having abetted the said offence. On the evidence in the case, it was concurrently found by the courts below that the petitioner has abetted commission of the crime. This Court confirmed the conviction and sentence passed against the first accused, the offence having been established as alleged by the prosecution. The case of abetment by

the petitioner for the said offence, concurrently found by the courts below, does not deserve to be interfered with in revision, especially when the conviction of the first accused in the case has been confirmed by this Court in Crl.R.P.No.1000/97.

3. Learned counsel for the petitioner submits that the sentence awarded is excessive. This aspect was also considered and held against by this Court in Crl.R.P. No.1000/97, whereby, the conviction of the first accused was confirmed. Imprisonment prescribed for the offence of abetting under Section 109 IPC is the punishment provided for the offence abetted itself. Consequently, therefore, I do not see any reason why a different treatment is to be given to the petitioner, who was the abetter and to modify and reduce the sentence awarded to him, when the sentence awarded to the first accused stands confirmed vide order of this Court dated 1.3.2006 in Crl.R.P.No.1000/97.

In the result, confirming the conviction and sentence passed against the petitioner concurrently by the courts below, I dismiss this Crl.R.P. The court below shall enforce the sentence as against the petitioner forthwith.

9th January, 2007 (K.P.Balachandran, Judge)

tkv

K.P.Balachandran, J.

Crl.R.P.No.236 of 1998

ORDER

9th January, 2007